

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6690**

**BILL NUMBER: SB 367**

**DATE PREPARED:** Feb 26, 2002

**BILL AMENDED:** Feb 25, 2002

**SUBJECT:** Sex Offender Registry.

**FISCAL ANALYST:** Mark Goodpaster

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**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

(A) It provides that an offender must register with the county sheriff (instead of all local law enforcement agencies). It requires sheriffs to jointly maintain a sex offender registry web site containing the photograph, address, and other information relating to an offender. It provides that the jail commissary fund may be used to fund the sex offender registry web site.

(B) It requires the criminal justice institute to send a copy of the sex and violent offender directory to certain parties on computer disk, to send a paper copy of the directory upon request, and to provide a computer link to sex offender web sites maintained by county sheriffs.

(C) It provides that a person must register in Indiana if the person spends seven or more days in Indiana in a 180-day period or owns real property in Indiana and returns to the property at any time.

(D) It provides that a person who damages or defaces a copy of the directory commits criminal mischief: (1) as a Class A misdemeanor if the person is not required to register; and (2) as a Class D felony if the person is required to register.

(E) It prohibits an offender on probation or parole from residing within one mile of the victim's home.

(F) It provides that the victim's address is confidential.

(G) It repeals provisions concerning the current sex and violent offender registry.

(H) It creates a provision for constant supervision of violent offenders and flight risks on home detention: (1) as a condition of pre-trial release; and (2) as a condition of parole.

(J) It requires the Department of Correction, probation departments, and community corrections programs to develop written criteria and procedures to determine if an offender placed on home detention as a condition of pre-trial release or parole is a violent offender or flight risk.

(K) It requires that an entity monitoring a violent offender: (1) provide local law enforcement agencies with information indicating whether an offender on home detention is a violent offender; forward a photograph of the offender to local law enforcement; and (3) cause a law enforcement agency to be contacted first if a violent offender or flight risk violates a condition of home detention.

(L) It requires state and locally operated community corrections programs to report to the executive director of the Legislative Services Agency the race, ethnicity, and communicable disease carrier status of offenders

in the programs.

(M) It adds the reintegration of offenders into the community as a purpose for the establishment and operation of community corrections programs.

(N) It repeals the provision that a person who intentionally violates a home detention order commits escape, a Class D felony.

**Effective Date:** (Amended) January 1, 2003, July 1, 2003.

**Explanation of State Expenditures:** (Revised) *Provision A:* The Criminal Justice Institute anticipates assisting county sheriffs by providing grant funding from federal sources to implement this project and to improve the collection of criminal history records

*Provision B* would reduce distribution costs to the Criminal Justice Institute (CJI). Under current law, the Institute must distribute paper copies of the registry to all public and nonpublic schools, state agencies that license individuals who work with children, the State Personnel Department to screen individuals who may be hired to work with children, all child care facilities licensed by or regulated in the state of Indiana, and other entities that provide services to children or which request the registry. Under this bill, CJI would be required to distribute a computer disc to these parties.

*Provision C* would increase the number of offenders who would register in the offender registry.

*Provision D:* A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

*Provision E: Residency Near Victim-* The Department of Corrections may experience an increase in cost for monitoring sex offenders on parole regarding the requirement that they not reside within one mile of the victim of the offense. Over the last five years, between 47 and 281 sex offenders have been released each year. The number of offenders released over the past five years is provided in the table below (see *Explanation of Local Expenditures*).

*Background:* The Criminal Justice Institute reports that, currently, there are approximately 12,000 entries on the Registry. However, photographs are not be required for all of the current registrants.

From 1997 to 2001, an annual average of 442 adult offenders convicted of a sex offense were released from Department of Correction facilities. As of November 2001, approximately 530 sex offenders have an estimated release date on or before December 31, 2002.

*Provision H - Constant Supervision:* The Department of Correction (DOC) would likely incur additional costs associated with two aspects of this bill. First, parole agents currently do not monitor offenders on a constant basis. Consequently, DOC would need to either add staff to monitor offenders on parole at night or renegotiate its contract with the Volunteers of America to provide the additional monitoring needed under this bill. DOC also indicates that a monitoring device to maintain constant supervision of violent offenders on parole would be a global positioning system. In addition, some administrative costs may be incurred by

the Parole Board and the Department of Correction in developing criteria and procedures and a record keeping system for determining whether an offender is a violent offender.

*Background:* The Department of Correction currently contracts with two agencies for drug testing, electronic monitoring, residential supervised housing, and sex offender treatment for paroled offenders. Volunteers of America provides electronic monitoring and day reporting on a statewide basis for parolees who have substance abuse problems. The Volunteers of America also has a residential component primarily used for parolees in the Indianapolis District. DOC contracts with Liberty Health as part of DOC's Sex Offender Management and Monitoring Program.

While the contractors are acting on behalf of the DOC, each offender is assigned to a parole agent. In addition, each parole agent makes all relevant supervision decisions such as submitting parole violation reports, and recommending offenders for discharge from supervision.

DOC also indicates that the parole staff have arrangements with several law enforcement agencies across the state concerning the notification of the release of offenders on parole. As an example, Marion County requests that all offenders on parole or probation register with the Indianapolis Police Department regardless of offense. DOC assists with this process. Other individual counties have requested updated lists of parolees, which are generally provided directly by the supervising agents. The Department also runs a list of upcoming release dates from the Offender Information system that is sometimes requested from a county. DOC staff also regularly meet with the Indianapolis Police Department to update their violent persons list, which documents information on approximately 200 offenders considered high risk in Marion County.

DOC reports the number of offenders who have been released on parole during FY 2001 with their most serious offense as the following.

Offense Description	Code Cite	Male	Female	Total
Murder	IC 35-42-1-1	36	3	39
Voluntary Manslaughter	IC 35-42-1-3	21	2	23
Involuntary Manslaughter	IC 35-42-1-4	6	1	7
Reckless Homicide	IC 35-42-1-5	17	2	19
Battery	IC 35-42-2-1	234	10	244
Domestic Battery	IC 35-42-2-1.3	0	0	0
Aggravated Battery	IC 35-42-2-1.5	25	1	26
Kidnaping	IC 35-42-3-2	3	0	3
Rape	IC 35-42-4-1	58	0	58
Criminal Deviate Conduct	IC 35-42-4-2	9	0	9
Child Molesting	IC 35-42-4-3	156	3	159
Robbery (FA or FB)	IC 35-42-5-1	194	10	204
Arson	IC 35-43-1-1	22	0	22
Burglary (FA or FB)	IC 35-43-2-1	259	6	265
Escape/Failure to Return	IC 35-44-3-5	65	8	73
Stalking	IC 35-45-10-5	6	0	6
<b>Total Released to Parole</b>		<b>1,111</b>	<b>46</b>	<b>1,157</b>

Provision L adds the requirement that the Department of Correction compile added information on the offenders who are currently incarcerated in DOC facilities. This information would include the race of the offender and whether the offender is infected with either tuberculosis in a communicable stage or another dangerous communicable disease. Concerning race and ethnicity, the Department already compiles information on six racial and ethnic categories -- White, African American, Hispanic, Native American, Asian and Pacific Islanders, and Others.

Concerning carrier status, the Department also screens offenders for tuberculosis and certain types of venereal diseases, including syphilis, gonorrhea, and chlamydia. DOC also screens for HIV upon request and for Hepatitis B or C if there is a specific clinical indication. Consequently, the additional cost to the Department of compiling and reporting the information should be minimal.

The Department would also need to redesign the quarterly reporting forms that the community corrections agencies complete and submit to the Department.

Under IC 11-12-3-1, the Department of Correction may establish and operate community corrections programs where these programs are not available at the local level. DOC reports that it does not operate any community corrections programs.

Provision N: HEA 1806-2001 specified that offenders who violate either a home detention order or who intentionally remove an electronic monitoring device can be prosecuted for criminal escape, a Class D felony. This section would limit criminal escape to intentionally removing an electronic monitoring device to a Class D felony. This section could marginally reduce future prison commitments.

**Explanation of State Revenues:** (Revised) *Provision D:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000, while the maximum fine for a Class A misdemeanor is \$5,000. Fines for either felonies or misdemeanors are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee for either a felony or misdemeanor that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (Revised) *Provision A: Local Registration* - County sheriffs would incur some expenses in jointly developing a statewide web site for sex offenders. The specific effects of this portion of the bill would vary between local law enforcement agencies and would be determined by the level of additional technology needed for making photographs available on an Internet site. It is anticipated that the Indiana Sheriffs Association will develop the website for these counties. The added costs to develop these web sites can be paid for in part from the jail commissary fund, a grant from the Criminal Justice Institute (see *Explanation of State Expenditures*), and any other source subject to approval of the county fiscal body. Requiring sex offenders to register with the county sheriff (instead of all local law enforcement agencies) would reduce administrative burdens for municipal police departments. Since offenders are already required to register with county sheriffs under current law, this provision should have a limited effect on county sheriffs.

*Provision D:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A

\$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

*Provision E: Residency Near Victim* - The sentencing court and its probation officers would likely monitor the released sex offenders who are assigned to probation. Over the past five years, the number of offenders who have been released from the Department of Correction facilities and assigned to probation has ranged between 226 and 274 each year. Depending on the sex crime and the community in which an offender is placed, a sex offender may spend between two and five years on probation.

The number of adult sex offenders who have been released and placed on probation or parole over the past five years are shown in the table below.

<b>Number of Adult Sex Offenders Released From Department of Correction Facilities and Assigned to Probation or Parole</b>					
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Probation</b>	226	274	248	270	235
<b>Parole</b>	47	146	240	244	281
<b>Total</b>	<b>273</b>	<b>420</b>	<b>488</b>	<b>514</b>	<b>516</b>
Source: Indiana Department of Corrections.					
Note: No offenders who were released under Sexual Misconduct with a Minor (IC 3542-4-9) were convicted of an A or B Felony.					

This table includes persons who were sentenced for the following crimes: rape, criminal deviate conduct, child molestation, child exploitation, vicarious sexual gratification, child solicitation, child seduction, sexual battery, incest, and sexual misconduct with a minor.

*Provision F* provides that the victim's address is confidential. There is no fiscal impact in meeting this provision of the bill.

*Provision H:* Current law requires any person assigned to home detention to be monitored 24 hours per day if the person has either been convicted of being or alleged to be a violent offender. Provision A creates a new section specifically for persons alleged to be violent offenders who are assigned to a pretrial release program. Consequently, there would be no fiscal impact associated with this requirement.

*Provision L:* The requirement to compile information on demographic characteristics of the offenders in community corrections programs will require the local programs to reconfigure their information databases to report this information to the Department of Correction. While some agencies have automated their information systems, others compile this information manually.

Concerning carrier status, community corrections staff generally screen offenders for tuberculosis if the offenders will be placed in a residential program. DOC reports that 37 community corrections agencies have

residential and work release programs, and 17 community corrections agencies have day reporting programs. In at least some of these counties, the local health department performs the test. Staff also indicates that under current practice, if medical histories are not included in a pre-sentence investigation, staff depends on offenders to report their disease carrier status. Requiring health information on all community corrections offenders could increase the cost of reporting information to the Department of Correction if more than self-reporting of health histories is needed.

As of October 2001, 62 counties operated community corrections programs and received state support. DOC reports that 14,638 offenders were in some type of community corrections program as of June 2001.

**Explanation of Local Revenues:**

**State Agencies Affected:** Criminal Justice Institute.

**Local Agencies Affected:** Law enforcement agencies, trial courts, probation offices, community corrections agencies.

**Information Sources:** Catherine O'Connor, Criminal Justice Institute, (317) 232-1295; Department of Corrections.